

STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE INVESTIGATION OF

RICHARD C. VILS, R.Ph., and
RALPH J. SEDARSKI, R.Ph.,
LICENSEES.

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MEMORANDUM AND ORDER
ON SETTLEMENT CONFERENCE

File No. 85 PHM 64

TO: Jack R. DeWitt
DeWitt, Porter, Huggett
Schumacher & Morgan, S.C.
Attorneys at Law
121 South Pinckney Street
P.O. Box 2509
Madison, WI 53701

Robert T. Ganch
Attorney at Law
Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708

Pursuant to notice, a Settlement Conference was held before an official of the Pharmacy Examining Board on February 13, 1989. The purpose of the conference was to provide all interested parties with an opportunity to discuss the allegations received pertaining to the practice of Richard C. Vils, R.Ph. and Ralph K. Sedarski, R. Ph. as licensed pharmacists, and attempt to reach a fair resolution of the matter.

APPEARANCES

Presiding over the settlement conference was Rod C. Bohn, R. Ph., member of the Pharmacy Examining Board. The Board's legal counsel, Donald R. Rittel, was also present.

Attorney Robert T. Ganch appeared representing the Division of Enforcement. John Ohm and John Isley appeared to provide information concerning the allegations made against the licensees.

The licensees, Richard C. Vils, R.Ph., and Ralph J. Sedarski, R.Ph., appeared personally and by their attorney, Jack R. DeWitt.

PROCEEDINGS

The presiding officer made an introductory statement describing the procedures by which the Settlement Conference would be conducted.

Oral presentations of the positions of the parties were made. These statements were made for the sole purpose of negotiating a binding, consensual agreement. They were received without prejudice to changes and may not be used against the licensee in any formal hearing.

Subsequent to the receipt of the oral statements, the parties presented recommendations for terms of settlement. The presiding officer considered the presentations and made a recommendation of settlement terms on behalf of the Board.

The licensees accepted the proposed terms of settlement.

Based upon the proceedings at the Settlement Conference, the Pharmacy Examining Board hereby renders the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. Richard C. Vils, R.Ph., date of birth 1/9/28, of 107 South Main Street, Chippewa Falls, Wisconsin 54729, is and was at all times relevant to this matter duly licensed in the State of Wisconsin as a registered pharmacist under license #6006, first granted on November 4, 1950.

2. Ralph J. Sedarski, R.Ph., date of birth 9/15/25, of Route 5, Box 230, Chippewa Falls, Wisconsin 54729, is and was at all times relevant to this matter duly licensed in the State of Wisconsin as a registered pharmacist under license #6215, first granted on July 12, 1952.

3. At all times relevant to this matter, Richard C. Vils and Ralph J. Sedarski were owners and employees of Badger Pharmacy, Inc., 116 North Bridge Street, Chippewa Falls, Wisconsin 54729, each working as a pharmacist at said pharmacy.

4. An investigation has been pending regarding Badger Pharmacy, Inc., Richard C. Vils, R.Ph., and Ralph J. Sedarski, R.Ph., investigative file number 85 PHM 64, concerning alleged discrepancies in billing by Vils and Sedarski, as owners and employees of Badger Pharmacy, Inc., from 1981 to 1983 to the Wisconsin Medical Assistance Program for prescriptions dispensed to Medical Assistance recipients, and other allegations of violations of statutes and rules governing the practice of pharmacy. In regard to said investigation, the Department of Regulation and Licensing, Division of Enforcement, alleges numerous violations as follows:

- a. Obtaining or attempting to obtain compensation by fraud or deceit, in connection with claims for reimbursement from the Wisconsin Medical Assistance Program under Chapter 49, Wis. Stats., in violation of Phar 10.03(13), Wis. Adm. Code.
- b. Unauthorized substitution of drugs to fill a prescription in violation of Phar 8.05(2), Wis. Adm. Code and sec. 450.075, Wis. Stats.
- c. Mislabeling of prescription drugs dispensed in violation sec. Phar 7.02, Wis. Adm. Code.
- d. Dispensing unauthorized refills of prescriptions in violation of sec. 450.07(5), Wis. Stats., and secs. Phar 7.01(f), 7.03, and 8.06(2), Wis. Adm. Code.
- e. Controlled substances dispensing and record keeping violations contrary to chapter 8, Wis. Adm. Code.

5. Richard C. Vils and Ralph J. Sedarski each neither admits nor denies the aforesaid allegations in investigative file 85 PHM 64; however, each chooses not to contest said allegations in consideration of personal physical disability, impending retirement, and the desire to avoid the time and expense of contesting such allegations.

6. Richard C. Vils and Ralph J. Sedarski each represent that they have sold all ownership interest, direct or indirect, in Badger Pharmacy, Inc., in August 1985.

7. Richard C. Vils represents he has continued to work as an employee pharmacist at Badger Pharmacy, Inc., about 25 hours per week because of age and physical disability, and that he has intended to retire completely from the practice of pharmacy within this year.

8. Ralph J. Sedarski represents he is retired completely from the practice of pharmacy.

9. In consideration of his age and physical disability, his intended retirement, and in consideration of resolution of this matter, Richard C. Vils has tendered voluntary surrender of his license to practice pharmacy in the State of Wisconsin effective September 1, 1989, and has agreed to not apply again for licensure to practice pharmacy in the State of Wisconsin.

10. In consideration of his age and physical disabilities, his retirement, and in consideration of resolution of this matter, Ralph J. Sedarski has tendered voluntary surrender of his license to practice pharmacy in the State of Wisconsin effective September 1, 1989, and has agreed not to apply again for licensure to practice pharmacy in the State of Wisconsin.

CONCLUSIONS OF LAW

1. The Wisconsin Pharmacy Examining Board has jurisdiction in this matter and authority to accept the attached Stipulation pursuant to Chapter 450, Wis. Stats.

2. The uncontested allegations of conduct within paragraph 4 of the Findings of Fact above, constitute violations of secs. 450.075, 450.07(5), and 450.02(7)(a), Wis. Stats. (1983), and secs. 10.03(13), 8.05(2), 7.02, 7.01(1)(f), 7.03, 8.06, and ch. Phar 8, Wis. Adm. Code.

ORDER

NOW, THEREFORE, IT IS ORDERED:

1. The attached Stipulation is hereby accepted.

2. In lieu of other discipline, the VOLUNTARY SURRENDER by Richard C. Vils of his license to practice pharmacy in the State of Wisconsin, effective September 1, 1989, and his agreement not to apply again for such licensure is hereby accepted.

3. By September 1, 1989, Richard C. Vils shall deliver his original current certificate of license to practice pharmacy in the State of Wisconsin to the Pharmacy Examining Board at 1400 East Washington Avenue, P.O. Box 8935, Madison, WI 53708-8935.

4. Richard C. Vils shall not apply again for a license to practice pharmacy in the State of Wisconsin.

5. In lieu of other discipline, the VOLUNTARY SURRENDER by Ralph J. Sedarski of his license to practice pharmacy in the State of Wisconsin, effective September 1, 1989, and his agreement not to apply again for such licensure is hereby accepted.

6. By September 1, 1989, Ralph J. Sedarski shall deliver his original current certificate of license to practice pharmacy in the State of Wisconsin to the Pharmacy Examining Board at 1400 East Washington Avenue, P.O. Box 8935, Madison, WI 53708-8935.

7. Ralph J. Sedarski shall not apply again for a license to practice pharmacy in the State of Wisconsin.

Dated at Madison, Wisconsin this 24th day of March, 1989.

STATE OF WISCONSIN
PHARMACY EXAMINING BOARD

Kenneth Schaefer, R.Ph.
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DRR:eaj
BDLS-417

STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE INVESTIGATION OF

RICHARD C. VILS, R.Ph., and
RALPH J. SEDARSKI, R.Ph.,
LICENSEES.

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STIPULATION
FILE NO. 85 PHM 64

It is hereby stipulated between Richard C. Vils, R.Ph., Licensee, personally on his own behalf and Ralph J. Sedarski, R.Ph., Licensee, personally on his own behalf and Jack R. DeWitt, attorney for licensees, and Robert T. Ganch, Attorney for the Department of Regulation and Licensing, Division of Enforcement, and Rod C. Bohn, R.Ph., member of the Pharmacy Examining Board, as follows that:

1. This Stipulation is entered into as a result of a pending investigation of licensure to practice pharmacy in the state of Wisconsin of Richard C. Vils, R.Ph., and of Ralph J. Sedarski, R.Ph., by the Division of Enforcement (85 PHM 64).

2. Richard C. Vils, R.Ph., and Ralph J. Sedarski, R.Ph., each consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

3. Richard C. Vils, R.Ph., and Ralph J. Sedarski, R.Ph., each understands that by the signing of this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, at which time the state has the burden of proving those allegations by clear, satisfactory and convincing evidence; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights in this matter.

4. The pending investigation in investigative file number 85 PHM 64 concerns alleged discrepancies in billings between 1981 and 1983 to the Wisconsin Medical Assistance Program, and other allegations of violations of statutes and rules governing the practice of pharmacy in the State of Wisconsin, involving Badger Pharmacy, Inc., and then owners and employees, Richard C. Vils, R.Ph., and Ralph J. Sedarski, R.Ph.

5. Richard C. Vils and Ralph J. Sedarski each neither admits nor denies the aforesaid allegations in investigative file 85 PHM 64; however, each chooses not to contest said allegations in consideration of personal physical disability, impending retirement, and the desire to avoid the time and expense of contesting such allegations.

6. Richard C. Vils and Ralph J. Sedarski each represent that they have sold all ownership interest, direct or indirect, in Badger Pharmacy, Inc., in August 1985.

7. Richard C. Vils represents he has continued to work as an employee pharmacist at Badger Pharmacy, Inc., about 25 hours per week because of age and physical disability, and that he has intended to retire completely from the practice of pharmacy within this year.

8. Ralph J. Sedarski represents he is retired completely from the practice of pharmacy.

9. In consideration of his age and physical disability, his intended retirement, and in consideration of resolution of this matter, Richard C. Vils hereby tenders voluntary surrender of his license to practice pharmacy in the State of Wisconsin effective September 1, 1989 and agrees to not apply again for licensure to practice pharmacy in the State of Wisconsin.

10. In consideration of his age and physical disabilities, his retirement and in consideration of resolution of this matter, Ralph J. Sedarski hereby tenders voluntary surrender of his license to practice pharmacy in the State of Wisconsin effective September 1, 1989 and agrees not to apply again for licensure to practice pharmacy in the State of Wisconsin.

11. Richard C. Vils, R.Ph., and Ralph J. Sedarski, R.Ph., each agree to the adoption and issuance of the attached Memorandum and Order on Settlement Conference by the Pharmacy Examining Board as the final resolution of investigative file 85 PHM 64.

12. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings.

13. If the Board accepts the terms of this Stipulation, the parties to the Stipulation consent to the entry of the attached Memorandum and Order on Settlement Conference without further notice, pleading, appearance or consent of the parties.

14. If the Board accepts this Stipulation and issues the attached Memorandum on settlement Conference, Vils and Sedarski each agree to deliver by not later than September 1, 1989 his current certificate of license to practice pharmacy in the State of Wisconsin to the Pharmacy Examining Board offices.

15. In consideration of the voluntary surrender of license and agreement not to apply again for licensure to practice pharmacy in the State of Wisconsin by each of Richard C. Vils and Ralph J. Sedarski, the Division of Enforcement, and the undersigned board member, joins Vils and Sedarski in recommending the Pharmacy Examining Board adopt this Stipulation and issue the

attached Memorandum and Order on Settlement Conference. All parties agree that the attorney for the Division of Enforcement and the undersigned board member may appear before the Pharmacy Examining Board in support of adoption of this Stipulation and attached Memorandum and Order on Settlement Conference.

Richard C. Vils, R.Ph.
Richard C. Vils, R.Ph.
Licensee

March 20, 1989
Date

Ralph J. Sedarski
Ralph J. Sedarski, R.Ph.
Licensee

March 20 - 1989
Date

Jack DeWitt
Jack DeWitt
Attorney for Licensees

February 20, 1989
Date

Robert T. Ganch
Robert T. Ganch, Attorney
Division of Enforcement

March 24, 1989
Date

Rod C. Bohn, R.Ph.
Rod C. Bohn, R.Ph. DR
Board Member

March 23, 1989
Date

RTG:mkm
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